UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

LUXEYARD, INC.,) 3:15-cv-0035/-LRH-WGC	
Plaintiff,	MINUTES OF THE COURT	
vs.	October 8, 2015	
KAY HOLDINGS, INC., SANO HOLDINGS, INC., and ROBERT WHEAT,)))	
Defendants.		
PRESENT: THE HONORABLE WILLIAM G	. COBB, U.S. MAGISTRATE JUDGE	
DEPUTY CLERK: <u>KATIE LYNN OGDEN</u> REPORTER: <u>NONE APPEARING</u>		
COUNSEL FOR PLAINTIFF(S): NONE APPE	EARING	
COUNSEL FOR DEFENDANT(S): NONE AP	PEARING	

MINUTE ORDER IN CHAMBERS:

Before the court is Plaintiff's Motion for Additional Time to Accomplish Service. (ECF No. 30.) Plaintiff represents it has made eight attempts at personal service upon Defendant Wheat and has exercised due diligence in attempting to serve the Defendant. (*Id.*, at 2.) Plaintiff requests an extension of 90 days to serve Defendant Wheat, stating Plaintiff has exhausted all reasonable means of locating Defendant Wheat and has also filed a motion to authorize substitute or alternate service. Plaintiff requests the court to grant its motion for additional time "consistent with Plaintiff's request for substitute or alternate service of process upon Defendant Wheat." (*Id.*, at 3.) The court, however, court has already considered the Plaintiff's motion to authorize substitute or alternate service (ECF No. 29), and has denied it without prejudice. (See, ECF No. 33.)

Plaintiff filed an amended complaint on August 27, 2015, which named Robert Wheat as an additional Defendant. (ECF No. 14.) Rule 4(m) of the Federal Rules of Civil Procedure has been interpreted to the effect that a new 120 day deadline to effect service would apply to newly-added parties. *City of Merced v. Fields*, 997 F.Supp. 1326, 1338 (E.D. Cal. 1998); *Disney v. Kenworth*, No. 1:12-cv-00484-AWI-GSA (2012 WL 3260454), Aug. 8, 2012, E.D. Cal.

MINUTES OF THE COURT

3:15-cv-00357-LRH-WGC Date: October 8, 2015

Page 2

Thus, the time period for effecting service on newly added defendant Robert Wheat commenced from the filing of the amended complaint which added him as a party defendant, i.e., August 27, 2015. (ECF No. 14.) Therefore, the deadline for service of Plaintiff's amended complaint is December 25, 2015. (See, Notice of Electronic Filing [NEF] re ECF No. 14.) Plaintiff has approximately 78 days remaining to complete service on Defendant Wheat. Plaintiff's motion insofar as it requests an extension of time to complete service is premature.

Plaintiff's motion for an extension of time (ECF No. 30) is **DENIED WITHOUT PREJUDICE.**

IT IS SO ORDERED.

LANC	E S. WILSON, CLERK	
By:	/s/	
<i></i>	Deputy Clerk	